

## **REMARKS**

This is a full and timely response to the outstanding non-final Office Action mailed February 20, 2009 (Paper No. 20090215). Upon entry of this response, claims 2-5, 9-12, 16-17, 19, 21-23, and 25-28 are pending in the application. In this response, claims 2-5, 9-12, 16-17, 19, 21-23, and 27-28 are amended, and claims 1, 6-8, 13-15, 18, 20, and 24 are cancelled. Applicant respectfully requests reconsideration of all pending claims.

### **I. Allowable Subject Matter**

Applicant acknowledges the Examiner's indication that claims 4, 5, 9, 19, 23, 27, and 28 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claim. Objected-to claims 4, 9, 19, 23, 27, and 28 are amended herein such that these claims are each an independent claim, and are therefore allowable. Objected-to claim 5 is amended to depend from now-independent claim 4, and is therefore also allowable.

### **II. Claim Objections**

Claim 25 is objected to because of an informality related to the preamble. Specifically, the Office Action notes (p. 2) that "claim 25 refers to the 'machine-readable code arrangement of claim 21'; however, claim 21 recites an apparatus". Applicant submits that although the claim listing contained in the last response (filed November 25, 2008) did show claim 25 as depending from claim 21, this was an error: claim 25 was never amended before this response, and originally submitted claim 25 depends from claim 21. The text of claim 25 has been updated in the section of claim amendments herein to reflect proper dependence on claim 21. Applicant notes that dependence on claim 21 is not itself an amendment, since it reflects the originally filed claim 21. Since there is no inconsistency between the preamble of claim 25 and the preamble of its parent claim 21, Applicant respectfully requests that the objection be withdrawn.

III. Rejection of Claims 1-3, 6-8, 10-18, 20-22, and 24-26 under 35 U.S.C. §103

Claims 1-3, 6-8, 10-18, 20-22, and 24-26 are rejected under §103(a) as allegedly obvious over *Athreya et al.* (U.S. 7,222,348) in view of *Zeryck et al.* (U.S. 6,832,379). Claims 2-3, 10-12, 16-17, 21-22, and 25-26 are amended to depend from objected-to and now-independent claims 4, 9, 19, 23, and 27 (respectively), and are thus allowable. Claims 1, 6-8, 13-15, 18, 20, and 24 are cancelled without prejudice, waiver, or disclaimer, and the rejection of these claims is therefore rendered moot. Applicant reserves the right to present the subject matter of these cancelled claims, or variants thereof, in continuing applications to be filed subsequently. It is well established at law that, for a proper rejection of a claim under 35 U.S.C. §103 as being obvious based upon a combination of references, the cited combination of references must disclose, teach, or suggest (either implicitly or explicitly) all elements/features/steps of the claim at issue. See, e.g., *In re Dow Chemical*, 5 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1988); *In re Keller*, 208 U.S.P.Q.2d 871, 881 (C.C.P.A. 1981).

**CONCLUSION**

Applicant respectfully requests that all outstanding objections and rejections be withdrawn and that this application and presently pending claims 2-5, 9-12, 16-17, 19, 21-23, and 25-28 be allowed to issue. Any statements in the Office Action that are not explicitly addressed herein are not intended to be admitted. In addition, any and all findings of inherency are traversed as not having been shown to be necessarily present. Furthermore, any and all findings of well-known art and official notice, or statements interpreted similarly, should not be considered well known since the Office Action does not include specific factual findings predicated on sound technical and scientific reasoning to support such conclusions. If the Examiner has any questions or comments regarding Applicant's response, the Examiner is encouraged to telephone Applicant's undersigned counsel.

Respectfully submitted,

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